

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. CR-22-418-F
	)	
ELISEO LUSIO-FLORES,	)	
	)	
Defendant.	)	

**ORDER**

On May 18, 2023, the Court held a hearing, pursuant to 18 U.S.C. §§4241 and 4247(d), to consider Defendant Lusio-Flores's competency to stand trial. Defendant was present and represented by his counsel, Assistant Federal Public Defender Julia Summers. Assistant United States Attorney Brandon Hale appeared on behalf of the United States.

On November 22, 2022, upon defense counsel's motion, the Court ordered Defendant Lusio-Flores committed to the custody of the Attorney General to undergo a competency evaluation to determine whether he may be presently suffering from a mental disease or defect rendering him mentally incompetent to the extent he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense, and to assess whether, at the time of

the commission of the alleged criminal conduct, he was able to appreciate the nature and quality or wrongfulness of the acts with which he is charged. *Docs. 18 and 19.*

Accordingly, Defendant Lusio-Flores was evaluated by a psychologist at a Federal Bureau of Prisons facility. The report, filed under seal, details the findings and conclusions of Dr. Carmen Rodriguez, Psy. D. *Doc. 20 (sealed)*. Dr. Rodriguez concludes that Mr. Lusio-Flores's mental condition likely impairs his rational understanding and appreciation of the proceedings against him, as well as his ability to rationally consult with counsel. Dr. Rodriguez recommends Mr. Lusio-Flores be found incompetent to proceed based on "unsatisfactory" trial competency. She did not opine on the likelihood of Mr. Lusio-Flores attaining competency.

At the May 18, 2023 hearing, the parties stipulated to the report prepared by Dr. Rodriguez. Neither side presented additional evidence. The Court finds by a preponderance of the evidence that Defendant Lusio-Flores is presently suffering from a mental disorder rendering him mentally incompetent to the extent that he does not possess a rational and factual understanding of the proceedings, and does not have the capacity to assist legal counsel in his defense. Lacking discretion to do otherwise, the Court must commit Defendant Lusio-Flores to the custody of the Attorney General.

Therefore, the Court orders, pursuant to 18 U.S.C. §4241(d), that the Defendant Eliseo Lusio-Flores be committed to the custody of the Attorney General

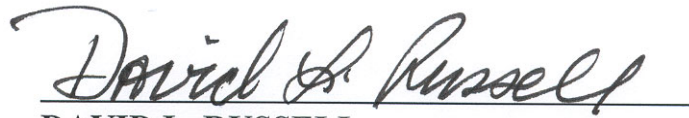
for hospitalization and treatment at a suitable facility, in order to determine whether there is a substantial probability that in the foreseeable future he will attain the mental capacity to permit the criminal proceedings to go forward. Defendant's commitment shall not exceed four months without additional authorization from the Court.

The Court further orders that if the director of the facility in which Defendant is hospitalized determines that Defendant has recovered to such an extent that he is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense, the director shall immediately file a certificate to that effect with the Clerk of Court, and the Clerk shall ensure that a copy of the certificate is provided to counsel for the Government and Defendant.

Defendant is remanded to the custody of the U.S. Marshal, who shall assist as necessary to fulfill the requirements of this Order. The Court further orders the United States Marshal to arrange the Defendant's transport in an expeditious manner to and from the treatment facility.

All other proceedings in this case for Defendant Lusio-Flores are continued pending the above-ordered hospitalization and treatment. Any periods of delay resulting from these proceedings are excluded from time computations under the Speedy Trial Act, under 18 U.S.C. §3161(h)(1)(a). *United States v. Taylor*, 353 F.3d 868, 869 (10<sup>th</sup> Cir. 2003).

IT IS SO ORDERED this 19th day of May, 2023.

  
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DAVID L. RUSSELL  
UNITED STATES DISTRICT JUDGE